

2. Plaintiff Velocity is a limited liability corporation organized and existing under the laws of Illinois and having a principal business address at 335 Lloyd Park Lane, Atherton, CA 94027.

3. On information and belief, Defendant BMW of North America, LLC is a corporation organized under the laws of the state of Delaware with an office and principal place of business located 300 Chestnut Road, Woodcliff Lake, NJ 07677.

4. On information and belief, Defendant BMW Manufacturing Co., LLC is a corporation organized under the laws of the state of Delaware with an office and principal place of business located at 1400 Highway 101 South, Greer, SC 29651.

5. BMW advertises, markets, and distributes automobiles under the BMW brand throughout the United States.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over BMW because BMW has committed, and continues to commit, acts of patent infringement in Illinois, including in this judicial district, and otherwise transacts business in the state of Illinois, including in this district.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because BMW is subject to personal jurisdiction in this judicial district and has committed, and continues to commit, acts of patent infringement giving rise to the claims alleged herein within this judicial district.

### **THE PATENT-IN-SUIT**

9. On September 21, 1999, U.S. Patent No. 5,954,781 (“the ‘781 Patent”), entitled “METHOD AND APPARATUS FOR OPTIMIZING VEHICLE OPERATION” (Exhibit A), duly and legally issued.

10. Velocity owns all rights, title, and interest in and to the '781 patent and has the right to sue and recover for past, present, and future infringement.

**COUNT I - INFRINGEMENT OF THE '781 PATENT**

11. Paragraphs 1 through 10 are incorporated by reference as though fully stated herein.

12. BMW manufactures, uses, imports, exports, offers for sale, and sells automobiles that include radar equipment and radar-based safety features, including, for example, automobiles equipped with Active Cruise Control.

13. BMW also manufactures, uses, imports, exports, offers for sale, and sells automobiles with information displays that provide drivers with information regarding, for example, fuel consumption, efficiency of operation, and safety.

14. Furthermore, BMW manufactures, uses, imports, exports, offers for sale, and sells automobiles that include a manual mode of an automatic transmission or a manual transmission.

15. By manufacturing, using, importing, offering for sale, and selling automobiles equipped with one or more of the features described above, BMW has directly infringed, and continues to infringe, either literally or under the doctrine of equivalents, at least claim 17 of the '781 Patent in violation of 35 U.S.C. § 271.

16. Velocity has been damaged by BMW's infringement of the '781 Patent.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Velocity prays that this Court:

- A. Enter a judgment that BMW has infringed the '781 Patent;
- B. Award Velocity damages in an amount sufficient to compensate Velocity for BMW's infringement of the '781 Patent, but not less than a reasonable royalty;
- C. Award Velocity prejudgment interest pursuant to 35 U.S.C. § 284; and
- D. Grant Velocity such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Velocity hereby demands a jury trial on all issues appropriately triable by a jury.

Dated: November 21, 2013

Respectfully submitted,

/s/ James A. Shimota

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